

Mr. Golden

18641

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-203598

DATE: June 26, 1981

MATTER OF: Calcagni Machine Works, Inc.

DIGEST:

GAO will not review determination of nonresponsibility of small business bidder absent prima facie showing of fraud or that information vital to responsibility determination was willfully disregarded, thus implying bad faith, where such determination was referred to and concurred in by Small Business Administration, since disposition of SBA with regard to such matters is final.

Calcagni Machine Works, Inc. (Calcagni), the low bidder under solicitation No. 189-81-R-0123 issued by the Naval Supply Center, protests the refusal by the Small Business Administration (SBA), Philadelphia Regional Office, to issue a certificate of competency (COC).

According to Calcagni, the SBA stated that it based its COC denial on Calcagni's lack of a suitable facility, lack of the necessary skilled workforce, and lack of an ability to acquire parts. However, Calcagni alleges that the real cause for SBA's denial of a COC was discrimination. Calcagni infers this to be the case because of the firm owner's immigrant status and foreign accent. The protester requests that we recommend that SBA issue a COC and that the protester be awarded the contract.

By law, SBA COC determinations are conclusive. 15 U.S.C. § 637(b)(7) (Supp. I 1977). Therefore, our Office generally will not review SBA decisions to award a COC absent a prima facie showing of fraud on the part of Government officials or that information vital to the responsibility determination was willfully

[Protest of SBA Refusal To Issue COC]
~~217446~~ 115652

disregarded, thus implying bad faith. J. Baranello and Sons, 58 Comp. Gen. 509, 79-1 CPD 322. Nor does our Office generally conduct independent investigations to establish the validity of a protester's speculative statements. Dan's Janitorial Services Supply, B-200360, January 22, 1981, 81-1 CPD 36.

We do not believe protester's speculative allegation of improper discriminatory action by the SBA constitutes a prima facie showing of willful disregard of information vital to the responsibility determination so as to imply bad faith, especially in view of the three apparently valid reasons stated by the SBA for the COC denial. See Micrographic International, Inc., B-202043, March 4, 1981, 81-1 CPD 164; Old Hickory Services, B-192906.2 February 9, 1979, 79-1 CPD 92. Further, we have not received the additional support for the allegation protester said it would furnish at a later date.

The protest is dismissed.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel